



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**AUG - 5 2011**

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Mike Johanns  
United States Senate  
Washington, D.C. 20510

Dear Senator Johanns:

Thank you for your letter of June 9, 2011, to President Barack Obama, in which you relayed your continued opposition to the regulation of coal combustion residuals (CCRs) as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act (RCRA). I appreciate your comments regarding the CCR rule that the U.S. Environmental Protection Agency (EPA) proposed on June 21, 2010.

With this proposal, the EPA would regulate the disposal of CCR for the first time. As your letter indicates, the EPA proposal sought public comment on two different approaches under RCRA. One option would treat such wastes as "special waste" under Subtitle C of the statute, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The second option would regulate CCR as non-hazardous waste and would include standards for waste management and disposal under Subtitle D of RCRA. The agency is currently examining these two options and evaluating approximately 450,000 public comments received on the proposal before deciding on the approach to take in the final rule based on the best available science.

The EPA's proposal did not propose to regulate the beneficial use of CCR, such as in concrete, and the EPA continues to support safe and protective beneficial use. The EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event that proper practices are not employed. Thus, the EPA solicited comments and information, and has met with various industry groups in order to better understand potential issues related to some types of beneficial use.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, which appears to read "Mathy Stanislaus", is positioned above the typed name.

Mathy Stanislaus  
Assistant Administrator